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NFL PROPERTIES LLC, PANTHERS FOOTBALL, LLC D/B/A CAROLINA PANTHERS,
and PDB SPORTS, LTD. D/B/A DENVER BRONCOS FOOTBALL CLUB

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NFL PROPERTIES LLC, PANTHERS
FOOTBALL, LLC D/B/A CAROLINA
PANTHERS, and PDB SPORTS, LTD. D/B/A
DENVER BRONCOS FOOTBALL CLUB,

Plaintiffs,

v.

FELANNIA HUMPHRIES, CHRISTOPHE
DION DUCKETT, RAMON HERNANDEZ
JR., NIGEL PIERS NELSON, DOE 3, and
DOES 6 through 100, inclusive,

Defendants.

Case No. 3:16-cv-00474-CRB *SEALED*

PRELIMINARY INJUNCTION

Complaint Filed: January 27, 2016
Trial Date: Not Yet Set

[FILED UNDER SEAL PURSUANT TO 15 U.S.C. § 1116]

1 The request of Plaintiffs NFL Properties LLC (“NFLP”), Panthers Football, LLC d/b/a
 2 Carolina Panthers (the “Carolina Panthers”), and PDB Sports, Ltd. d/b/a Denver Broncos Football
 3 Club (the “Denver Broncos”) (collectively, the “Plaintiffs”) for an *Ex Parte* Temporary
 4 Restraining Order, Seizure Order for unlicensed merchandise and tickets bearing trademarks
 5 owned by Plaintiffs, and Order to Show Cause for Preliminary Injunction, was presented to this
 6 Court on Friday, January 29, 2016;

7 This Court having entered an *Ex Parte* Order on February 2, 2016 (the “February 2, 2016
 8 Order”), granting the Temporary Restraining Order and Seizure Order for unlicensed merchandise
 9 and tickets bearing trademarks owned by Plaintiffs, and ordering Defendants Felannia Humphries,
 10 Christophe Dion Duckett, Ramon Hernandez Jr., Nigel Piers Nelson, DOE 3, and DOES 6 through
 11 100, inclusive (collectively referred to as “Defendants”), to show cause why an Order should not
 12 be entered (i) preliminarily enjoining Defendants from the acts temporarily restrained in the
 13 February 2, 2016 Order, and (ii) confirming the seizures made pursuant to the February 2, 2016
 14 Order; and

15 On presentation and consideration of the Verified Complaint, the exhibits thereto, and the
 16 accompanying declaration of Anastasia Danias, Senior Vice President and Chief Litigation Officer
 17 for the National Football League (the “NFL”) and Assistant Secretary of NFLP, sworn to on
 18 January 27, 2016; declarations of Heather Holdridge, an experienced private investigator licensed
 19 in California, sworn to on January 25, 2016 and February 11, 2016; declaration of Wayne Grooms,
 20 an experienced private investigator who has participated in the execution of seizure orders at the
 21 past twenty Super Bowl games; declaration of Todd D. Schoenberger, Special Agent for the
 22 United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”),
 23 Homeland Security Investigations (“HSI”), assigned to the San Jose Field Office, within the Area
 24 of Responsibility of the Office of the Special Agent in Charge, San Francisco; declaration of
 25 Richard Bailey, Financial Crimes Detective with the Santa Clara Police Department; declaration
 26 of Jose A. Martinez, Detective Police Officer with the San Jose Police Department; and
 27 declaration of Joseph Petersen, Esq.; and based on all other pleadings and proceedings presented
 28 to the Court, the Court hereby finds:

1 1. Plaintiffs have demonstrated that they are entitled to preliminary injunctive relief
2 by establishing that they are likely to succeed on the merits of their claims, that they are suffering
3 irreparable harm, that the balance of equities decidedly tips in their favor, and that the requested
4 relief is in the public interest.

5 2. Plaintiffs have shown a substantial likelihood of prevailing on the merits of their
6 claims that Defendants have used counterfeit and infringing marks in connection with the produc-
7 tion, offering for sale, distribution, or sale of items, in violation of the rights of Plaintiffs under the
8 Lanham Act and under the laws of the State of California.

9 3. The Carolina Panthers and the Denver Broncos competed in the Super Bowl
10 championship game on Sunday, February 7, 2016, at Levi's[®] Stadium in Santa Clara, California.

11 4. Before, during, and after the Super Bowl game, numerous related events took place
12 in the counties of Santa Clara, San Francisco, Alameda, and San Mateo (collectively "Bay Area
13 Counties").

14 5. The Super Bowl 50 game received intense media coverage and Plaintiffs' trade-
15 marks, including those of NFLP, the Carolina Panthers, the Denver Broncos, and the other NFL
16 Member Clubs (as defined in Plaintiffs' Verified Complaint), received extensive exposure in the
17 Bay Area Counties.

18 6. Plaintiffs have adopted and used in commerce certain trademarks that are widely
19 recognized by the public, including, but not limited to: NATIONAL FOOTBALL LEAGUE,
20 NFL, the NFL Shield Design (including both current and earlier versions), SUPER BOWL, 50, the
21 SUPER BOWL 50 Design, SUPER SUNDAY, ON THE FIFTY, VINCE LOMBARDI TROPHY,
22 the VINCE LOMBARDI TROPHY Design, AMERICAN FOOTBALL CONFERENCE, AFC,
23 the AFC Design (including both current and earlier versions), the AFC Champion Trophy Design,
24 NATIONAL FOOTBALL CONFERENCE, NFC, the NFC Design, the NFC Champion Trophy
25 Design, NFL EXPERIENCE, BACK TO FOOTBALL, the BACK TO FOOTBALL Design,
26 TOGETHER WE MAKE FOOTBALL, NFL NETWORK, the NFL NETWORK Design, NFL
27 ON LOCATION, NFL SHOP, NFL TICKET EXCHANGE, ON FIELD, PRO BOWL, SUNDAY
28 NIGHT FOOTBALL, MONDAY NIGHT FOOTBALL, TASTE OF THE NFL, CAROLINA

1 PANTHERS, PANTHERS, BELONG, TWO STATES. ONE TEAM., KEEP POUNDING, the
 2 PANTHERS Design, the PANTHERS Stylized Design, the CAROLINA PANTHERS Uniform
 3 Designs, DENVER BRONCOS, BRONCOS, BRONCOS COUNTRY, MILE HIGH MAGIC,
 4 MILES, ORANGE SUNDAY, ORANGE CRUSH, the BRONCOS Designs, the D & Horse
 5 Design, the Football Player On Bronco Design, the BRONCOS Horse Riding Design, the
 6 BRONCOS Twisting Horse Design, the Twisting Horse Design, the BRONCOS Mascot Design,
 7 the DENVER BRONCOS Uniform Designs, and the DENVER BRONCOS Helmet Designs
 8 (including both current and historic versions), among others (collectively along with the other
 9 NFLP, NFL, and Member Club word and design trademarks herein, the “NFL Trademarks”).

10 7. Plaintiffs have registered certain of their NFL Trademarks with the United States
 11 Patent and Trademark Office and/or with California Secretary of State.

12 8. Plaintiff NFLP, a wholly-owned subsidiary of NFL Ventures, L.P., which is an
 13 affiliate under common control with the NFL, owns all of the NFL’s trademarks, names, logos,
 14 symbols, slogans, and other identifying marks and indicia (both registered and unregistered) and is
 15 responsible for licensing and protecting the same. NFLP is also the authorized representative of
 16 the NFL’s thirty-two Member Clubs, including the Carolina Panthers and the Denver Broncos
 17 with respect to the licensing and protection of their trademarks, names, logos, symbols, slogans,
 18 and other identifying marks and indicia. Thus, NFLP has authority to license the use of the NFL
 19 Trademarks on tickets and on a wide variety of goods, including apparel such as t-shirts, garments
 20 and hats, souvenir items such as pennants, novelty items and games, and many other products, and
 21 NFLP has licensed third parties to use said trademarks on such merchandise under strict quality
 22 control standards.

23 9. Defendants, Felannia Humphries, Christophe Dion Duckett, Ramon Hernandez Jr.,
 24 Nigel Piers Nelson, DOE 3, and DOES 6 through 100, inclusive, are not, and have never been,
 25 licensed or authorized by NFLP to use the NFL Trademarks on merchandise or to manufacture,
 26 issue, and/or sell tickets for the Super Bowl 50 game.

27 10. Plaintiffs have shown a substantial likelihood of succeeding in demonstrating
 28 that before, during, and after the Super Bowl 50 game, Defendants in the Bay Area Counties

1 manufactured, distributed, offered for sale, sold, and advertised unauthorized sales of unlicensed,
2 counterfeit souvenir merchandise (“Counterfeit Merchandise”) and unlicensed, unredeemable
3 counterfeit tickets (“Counterfeit Tickets”) bearing the NFL Trademarks, including, but not limited
4 to, the Counterfeit Merchandise and Counterfeit Tickets seized from Defendants by Plaintiffs’
5 investigative representatives (while accompanied by duly authorized law enforcement agents)
6 pursuant to the February 2, 2016 Order (the “Seized Items”), as reflected in Exhibit 1 (identifying
7 the Seized Items, the Defendants from whom the Seized Items were seized, the location of the
8 seizure, and the Defendants’ purported physical addresses (when stated by a Defendant)).

9 11. Plaintiffs have shown a substantial likelihood of succeeding in demonstrating
10 that the Seized Items are goods bearing “counterfeit marks” within the meaning of 15 U.S.C.
11 § 1116(d).

12 12. Plaintiffs have further shown a substantial likelihood of succeeding in demonstrat-
13 ing that Defendants will continue to engage in this unlawful activity, including, but not limited to,
14 the continued sale of Counterfeit Merchandise in the Bay Area Counties, if not enjoined by this
15 Court.

16 13. Defendants’ unlawful activities likely have caused, and are likely to further cause,
17 public confusion, mistake, or deception, causing immediate and irreparable harm to Plaintiffs.

18 14. Unless the requested Preliminary Injunction is granted, Plaintiffs will have no ade-
19 quate remedy at law and will suffer immediate and irreparable harm in the form of infringement of
20 the Plaintiffs’ trademarks, injury to reputation and property rights, and decreased sales of licensed
21 Super Bowl 50 merchandise.

22 15. Should this Court decline to grant Plaintiffs’ request for a Preliminary Injunction,
23 the harm to Plaintiffs would clearly outweigh any harm which Defendants may incur, because
24 Defendants have no legitimate rights to use the NFL Trademarks in connection with Counterfeit
25 Merchandise and Counterfeit Tickets or otherwise, Defendants have not requested permission
26 from Plaintiffs to use the NFL Trademarks, and Plaintiffs have not consented to such use.

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1 16. This Court believes that it is in the public interest that Counterfeit Merchandise,
2 Counterfeit Tickets, and otherwise infringing merchandise be removed from sale to unsuspecting
3 consumers.

4 17. Entry of an order other than the requested Preliminary Injunction would not
5 adequately achieve the objectives underlying the federal trademark law of the United States of
6 America and the statutory and common law trademark and unfair competition laws of the State
7 of California.

8 18. Plaintiffs have provided adequate security by posting a \$75,000 bond to the Court
9 in conjunction with the February 2, 2016 Order.

10 19. All Defendants identified in Exhibit 1 were properly served with the Verified
11 Complaint, Summons, and the February 2, 2016 Order (and were provided with directions for
12 obtaining from Plaintiffs' counsel, at no charge, Plaintiffs' supporting papers and the exhibits to
13 the Verified Complaint), and were thereby notified of the show cause hearing held in this Court
14 on February 12, 2016.

15 20. None of the Defendants have filed a response to Plaintiffs' moving papers or
16 otherwise appeared in this action.

17 THEREFORE, IT IS HEREBY ORDERED that Defendants, their officers, members,
18 directors, agents, servants, employees, confederates, representatives, and all persons acting in
19 concert or participation with them, are hereby preliminarily enjoined and restrained from:

20 (a) Manufacturing, distributing, offering for sale, selling, and/or advertising any
21 articles of merchandise or tickets bearing the trademarks of NFLP, NFL, and the Member Clubs,
22 or reproductions thereof, including, but not limited, to the following:

- 23 • NATIONAL FOOTBALL LEAGUE;
- 24 • NFL;
- 25 • the NFL Shield Designs (including both current and earlier versions), as depicted
26 on Exhibit 2 hereto;
- 27 • SUPER BOWL;
- 28 • 50;

- the Super Bowl 50 Design (National), as depicted on Exhibit 2 hereto;
- the Super Bowl 50 Design (Regional), as depicted on Exhibit 2 hereto;
- SUPER SUNDAY;
- ON THE FIFTY;
- VINCE LOMBARDI TROPHY;
- the VINCE LOMBARDI TROPHY Design, as depicted on Exhibit 2 hereto;
- AMERICAN FOOTBALL CONFERENCE;
- AFC;
- the AFC Design (including both current and earlier versions), as depicted on Exhibit 2 hereto;
- the AFC Champion Trophy Design, as depicted on Exhibit 2 hereto;
- NATIONAL FOOTBALL CONFERENCE;
- NFC;
- the NFC Design (including both current and earlier versions), as depicted on Exhibit 2 hereto;
- the NFC Champion Trophy Design, as depicted on Exhibit 2 hereto;
- NFL EXPERIENCE;
- NFL NETWORK;
- NFL NETWORK Design;
- NFL ON LOCATION;
- NFL SHOP;
- NFL TICKET EXCHANGE;
- ON FIELD;
- BACK TO FOOTBALL;
- BACK TO FOOTBALL Design;
- SUNDAY NIGHT FOOTBALL;
- MONDAY NIGHT FOOTBALL;
- TOGETHER WE MAKE FOOTBALL;

- PRO BOWL;
- TASTE OF THE NFL;
- CAROLINA PANTHERS; PANTHERS; BELONG; TWO STATES. ONE TEAM.; KEEP POUNDING; the PANTHERS Design, as depicted on Exhibit 3 hereto; the PANTHERS Stylized Design, as depicted on Exhibit 3 hereto;
- DENVER BRONCOS; BRONCOS; BRONCOS COUNTRY; MILE HIGH MAGIC; MILES; ORANGE SUNDAY; ORANGE CRUSH; the BRONCOS Designs, as depicted on Exhibit 3 hereto; the D & Horse Design, as depicted on Exhibit 3 hereto; the Football Player On Bronco Design, as depicted on Exhibit 3 hereto; the BRONCOS Horse Riding Design, as depicted on Exhibit 3 hereto; the BRONCOS Twisting Horse Design, as depicted on Exhibit 3 hereto; the Twisting Horse Design, as depicted on Exhibit 3 hereto; the BRONCOS Mascot Design, as depicted on Exhibit 3 hereto;
- the CAROLINA PANTHERS Uniform Designs, as depicted on Exhibit 3 hereto;
- the DENVER BRONCOS Uniform Designs, as depicted on Exhibit 3 hereto; the DENVER BRONCOS Helmet Designs (both current and historic), as depicted on Exhibit 3 hereto; and
- the full team names, logos, and related marks of any Member Club of the National Football League (including, but not limited to, the Carolina Panthers and the Denver Broncos); or

(b) Representing that any articles of merchandise or tickets manufactured, distributed, offered for sale, or sold or advertised by Defendants are sponsored or licensed or are authorized by or originate with NFLP, the NFL, or any of the Members Clubs including the Carolina Panthers and the Denver Broncos, or from otherwise taking any action likely to cause confusion, mistake, or deception on the part of the public as to the origin or sponsorship of such goods or tickets, unless such articles of merchandise have been licensed by Plaintiffs; or from taking any actions infringing any of Plaintiffs' trademark or other property rights, or from assisting, aiding, or abetting any other person or entity in engaging in or performing any of the activities referred to herein; and it is further

ORDERED that the seizures described herein, conducted pursuant to the February 2, 2016 Order, are hereby confirmed; and it is further

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1 ORDERED that Plaintiffs shall serve this Preliminary Injunction (and any other papers
2 filed in this action) by mail upon Defendants at their addresses listed in Exhibit 1, which shall
3 constitute effective service; and it is further

4 ORDERED that upon two (2) business days' written notice to the Court and Plaintiffs'
5 counsel, any Defendant may, upon proper showing, appear and move for the dissolution or
6 modification of the provisions of this Preliminary Injunction; and it is further

7 ORDERED that the February 2, 2016 Order shall be modified to unseal this action upon
8 execution of this Preliminary Injunction; and it is finally

9 ORDERED that this Preliminary Injunction shall remain in effect until disposition of this
10 action.

11 SIGNED this 12th day of February, 2016, at 2:13 p.m.

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15 United States District Judge
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